

REMARKS

Entry of the amended claims is proper under 37 C.F.R. §1.116 since the amendments: (1) place the application in condition for allowance (for the reasons discussed herein); (2) do not raise any new issues requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution without incorporating additional subject matter); (3) satisfy a requirement of form asserted in the previous Office Action; and/or (4) place the application in better form for appeal (if necessary). Entry is thus requested.

By the present response, Applicant has canceled claim 4, 7, 13, 16 and 27 without disclaimer. Further, Applicant has amended claims 1, 12, 20 and 22 to further clarify the invention. Claims 1-3, 5, 6, 8-12, 14, 15, 17-25 and 28-31 remain pending in the present application. Reconsideration and withdrawal of the outstanding rejections and allowance of the present application are respectfully requested in view of the above amendments and the following remarks.

In the Office Action, claims 1-3, 5-6, 11, 22-26, 28 and 31 have been rejected under 35 U.S.C. 21 103(a) as being unpatentable over U.S. Patent No. 5,831,970 (Arao). Claims 4 and 27 have been rejected under 35 U.S.C. § 103(a) over Arao in view of U.S. Patent No. 6,906,997 (Rajan). Claims 7 and 8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of U.S. Patent No. 6,317,426 (Afandor). Claims 9 and 29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of U.S. Patent No. 5,479,608

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(Richardson). Claims 10 and 30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Richardson and U.S. Patent No. 5,159,638 (Naito). Claims 12, 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of U.S. Patent No. 5,263,017 (Nakajima). Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima and Rajan. Claims 16 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima and Afandor. Claim 18 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima and Richardson. Claim 19 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima and Rajan and further in view of Naito. Claims 20 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of U.S. Patent No. 6,226,111 (Chang).

Examiner Interview

Applicant thanks Examiner Davis for the personal interview held on April 10, 2006 with Applicant's representative. At the interview, agreement was reached that amending the independent claims with the subject matter of claims 4 and 7 overcomes the existing rejections to the claims. These amendments have been made in the present response.

35 U.S.C. § 103 Rejections

Claims 1-3, 5, 6, 11, 22-26, 28 and 31 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Arao. Applicant has discussed the deficiencies of this reference in Applicant's

previously filed response and reasserts all arguments submitted in that response. Applicant respectfully traverses these rejections and provides the following additional remarks.

Regarding claims 1 and 22, Applicant submits that Arao does not disclose suggest or render obvious the limitations in the combination of each of these claims of, *inter alia*, determining whether a priority of the SF is higher than a priority of an existing SF if the SF is determined to have occurred, determining whether a target station uses a same protocol as the source station if the priority of the SF is determined to be higher than the priority of the existing SF, performing associated switching operations by the target and source stations after checking signals from each other, if it is determined that the target station does not use the same protocol as the source station, or where priority is higher when a protection side of the source station is active, than when a working side of the source station is active. The Examiner again asserts that Arao discloses determining whether a priority of the SF is higher than a priority of an existing SF, at col. 3, lines 4-5. However, as noted in Applicant's previously filed response. This merely discloses that the SF switching request has a higher priority than the SD switching request. With this being the case in Arao, clearly there is no need to determine whether a priority of the SF is higher than a priority of an existing SF, as recited in the claims of the present application.

The Examiner admits that Arao does not disclose or suggest determining whether a target station uses a same protocol as the source station if the priority of the SF is determined to be higher than the existing SF, but asserts that Arao discloses a source sending the K1 byte to the

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target at col. 4, lines 6-8. However, as noted in Applicant's previously filed response, this is not determining whether the target station uses a same protocol as the source station if the priority of the SF is determined to be higher than the priority of the existing SF. These limitations are neither disclosed nor suggested by Arao.

Moreover, the Examiner admits that Arao does not disclose or suggest where priority is higher when a protection side of the source station is active, than when a working side of the source station is active, but asserts in another portion of the Office Action regarding the rejections of claims 4 and 27, that Rajan et al. discloses these limitations in col. 4, lines 66-67. However, these portions of Rajan et al. merely disclose that a request hierarchy includes a highest priority of failure of protection followed by other lower priority failures as shown in figure 2, reference character 82 depicting rules in a finite state machine. This has nothing to do with bi-directional switching operation of an ATM switch where priority is higher when a protection side of the source station is active, than when a working side of the source station is active, as recited in the claims of the present application. Rajan et al. merely discloses rules specifying the priority of requests where the rules exist in a finite state machine. This has nothing to do with a source station or a source station having a protection side and a working side, or where priority is higher when a protection side of the source station is active than when a working side of the source station is active.

Further, as agreed at the Examiner interview, none of the cited references disclose or suggest performing associated switching operations by the target and source stations after checking signals from each other, if it is determined that the target station does not use the same protocol as the source station.

Regarding claims 2, 3, 5, 6, 11, 22-26, 28 and 31, Applicant submits that these claims are dependent on one of independent claims 1 and 22 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that neither Arao, Rajan et al. (nor any of the other cited references) disclose suggest or render obvious the limitations in the combination of each of claims 1-3, 5, 6, 11, 22-26, 28 and 31 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claims 4 and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Rajan et al. Applicant has canceled these claims therefore rendering these rejections moot. These claims have been incorporated into independent claims 1 and 22, and as noted previously Rajan et al. does not disclose or suggest these limitations in the claims of the present application.

Claims 7 and 8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Afandor et al. Claim 7 has been canceled. Applicant respectfully traverses these rejections and submits that claim 8 is dependent on independent claim 1 and, therefore, is

patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Afandor et al. does not overcome the substantial defects noted previously regarding Arao.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of these claims. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claims 9 and 29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Richardson. Applicant respectfully traverses these rejections and submits that claims 9 and 29 are dependent on one of independent claims 1 and 22 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicant submits that Richardson does not overcome the substantial defects noted previously regarding Arao.

Accordingly, Applicant submit that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of claims 9 and 29 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claims 10 and 30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Richardson and further in view of Naito et al. Applicant respectfully traverses

these rejections and submits that these claims are dependent on one of independent claims 1 and 22 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicant submits that neither Richardson nor Naito et al. overcome the substantial defects noted previously regarding Arao.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of claims 10 and 30 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claims 12, 14 and 15 have been rejected under 345 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima et al. Applicant respectfully traverses these rejections.

Regarding claim 12, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of, *inter alia*, determining whether a priority of the new SF is higher than a priority of a current SF if the new SF is determined to have occurred, determining whether a target station uses a same protocol as the source station if the priority of the new SF is determined to be higher than the priority of the current SF, performing associated switching operations by the target and source stations after checking signals from each other, if it is determined that the target station does not use the same protocol as the source station, or where a priority when the protection side is active is higher than a priority when the working side is active. As noted

previously, Arao does not disclose or suggest these limitations in the claims of the present application. Further Nakajima does not overcome the substantial defects noted previously regarding Arao.

Regarding claims 14 and 15, Applicant submits that these claims are dependent on independent claim 12 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of claims 12, 14 and 15 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima and further in view of Rajan et al. This claim has been canceled therefore rendering this rejection moot.

Claims 16 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima and further in view of Afandor et al. Claim 16 has been canceled. Applicant respectfully traverses these rejections and submits that claim 17 is are dependent on independent claim 12 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that neither Nakajima et al. nor Afandor et al. overcome the substantial defects noted previously regarding Arao.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of claim 17 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claim 18 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima et al. and further in view of Richardson. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 12 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that neither Nakajima et al. nor Richardson overcome the substantial defects noted previously regarding Arao.

Accordingly, Applicant submits that none of the cited references taken alone or in any proper combination disclose suggest or render obvious the limitations in the combination of claim 18 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claim 19 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Nakajima et al. and Rajan et al. and further in view of Naito et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 12 and, therefore, is patentable at least for the same reasons noted previously regarding this independent

claim. Applicant submits that neither Nakajima et al. nor Rajan et al. or Naito et al. overcome the substantial defects noted previously regarding Arao.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of claim 19 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 20 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Arao in view of Chang et al. Applicant respectfully traverses these rejections.

Regarding claim 20, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of, *inter alia*, determining whether a priority of the SF is higher than a priority of an existing SF, performing a switching operation from the protection side thereof to a working side of the source station after determining whether a signal fail has occurred and after determining that the priority of the SF is higher than the priority of the existing SF, performing associated switching operations by the target and source stations after checking signals from each other, if it is determined that the target station does not use the same protocol as the source station, or wherein a priority when the protection side is active is higher than a priority when the working side is active. As noted previously, Arao does not disclose or suggest these limitations in the claims of the present application. Further, Chang et al. does not disclose or suggest these

limitations. The Examiner admits that Arao does not disclose or suggest a failure occurring on the protection side and switching being performed to the protection side to the working side, but asserts that Chang et al. discloses these limitations in col. 4, lines 36-42. However, these portions merely disclose a 4-fiber bidirectional ring that includes two working fibers and two protection fibers where to recover from a link failure the bidirectional ring uses line protection switching to perform a loop-back function to avoid cable cuts or node failures. This has nothing to do with a protection side of a source station or a working side of a source station, or switching operation from the protection side to a working side of the source station after determining whether a signal fail has occurred and after determining that the priority of the SF is higher than the priority of the existing SF, as recited in the claims of the present application.

Regarding claim 21, Applicant submits this claim is dependent on independent claim 20 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of claims 20 and 21 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

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CONCLUSION

In view of the foregoing Amendment and remarks, Applicant submits that claims 1-3, 5, 6, 8-12, 14, 15, 17-25 and 28-31 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Frederick D. Bailey, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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